

1  
2  
3  
4  
5  
6  
7  
8  
9  
0  
1  
2  
3  
4  
5  
6  
7  
8  
9  
0  
1  
2

BEFORE THE  
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:

DIANE WAMPLER, )  
OPEN SOLUTIONS INC./NETRIX, )  
 )  
COMPLAINANT, )  
 )  
vs. )

ILLINOIS BELL TELEPHONE, ) No. 13-0287  
COMPANY, D/B/A AT&T ILLINOIS, )  
D/B/A/ AT&T WHOLESALE, )  
)  
RESPONDENT. )

Complaint as to billing/charges )  
 )  
in Alsip, Illinois )

Chicago, Illinois  
June 12, 2013

Met, pursuant to Notice, at 10:00 a.m.

BEFORE :

MR. JOHN RILEY, Administrative Law Judge

1 APPEARANCES:

2 MR. JEFFREY WAMPLER (VIA TELEPHONE),

3 2801 Lakeside Drive

4 Bannockburn, Illinois 60015

5 appeared pro se;

6 MR. JAMES A. HUTTENHOWER

7 Senior Attorney, State Regulatory

8 AT&T ILLINOIS

9 225 West Randolph Street

10 Floor 25D

11 Chicago, Illinois 60606

12 (312) 727-1444

13 jh7452@att.com

14 appeared on behalf of the Respondent.

15

16

17

18

19

20 L.A. COURT REPORTERS, LLC, by

21 MR. JOSEPH T. MELARKEY, C.S.R.

22 License No. 084-000686

1

I N D E X

2

Witnesses:

3

None.

4

5

6

7

8

9

10

E X H I B I T S

11

None.

12

13

14

15

16

17

18

19

20

21

22

1 JUDGE RILEY: Pursuant to the direction of the  
2 Illinois Commerce Commission, I call Docket 13-0287.

3 This is a complaint by Diane Wampler, Open  
4 Solutions Inc./Netrix versus Illinois Bell Telephone  
5 Company, D/B/A AT&T Illinois, D/B/A AT&T Wholesale, as to  
6 billing/charges in Alsip, Illinois.

7 Mr. Wampler, you are still appearing without  
8 an attorney, is that correct?

9 MR. WAMPLER (VIA TELEPHONE): That's correct.

10 JUDGE RILEY: Would you state your business  
11 address, for the record?

12 MR. WAMPLER: 2801 Lakeside Drive, Bannockburn,  
13 Illinois, 60015.

14 JUDGE RILEY: Thank you.

15 Mr. Huttenhower, for AT&T.

16 MR. HUTTENHOWER: James Huttenhower,  
17 H-U-T-T-E-N-H-O-W-E-R, 225 West Randolph Street, Suite 25-D,  
18 Chicago, Illinois, 60606.

19 JUDGE RILEY: Thank you.

20 We have the amended formal complaint, Mr.  
21 Wampler, posted as of June 10th.

22 From what I've been able to piece together

1 from the transcript and everything that we've talked about,  
2 the only entity that had a contract with AT&T as a customer  
3 was Open Solutions, Inc., and that was dissolved in 2009  
4 involuntarily according to the Secretary of State's office.

5 Netrix was simply a billing agent contracted  
6 with Open Solutions to take care of their billing matters,  
7 and they had no contract with AT&T.

8 Mr. Wampler, is it my understanding, did you  
9 have any individual contract with AT&T?

10 MR. WAMPLER: No.

11 JUDGE RILEY: And not as a principal of Open  
12 Solutions?

13 MR. WAMPLER: No.

14 JUDGE RILEY: Then the customer of AT&T is Open  
15 Solutions, which no longer exists.

16 Is there anything to go to hearing on?

17 MR. WAMPLER: Well, again, I think that's why you  
18 asked me to prepare the amended complaint as an officer or  
19 former officer, whatever term we want to use, of Open  
20 Solutions.

21 And, again, the text that I put in there  
22 was literally a cut and paste from the contract with AT&T

1 is required by their own contract to notify us of a billing  
2 rate increase, and they chose not to do that.

3 JUDGE RILEY: Just to nail one more thing down,  
4 Mr. Wampler, you are or were the President of Open  
5 Solutions, Inc.?

6 MR. WAMPLER: That's correct.

7 JUDGE RILEY: And there is no longer any entity  
8 called Open Solutions, Inc., is that correct?

9 MR. WAMPLER: Correct.

10 JUDGE RILEY: And it hasn't been revived?

11 MR. WAMPLER: Correct.

12 JUDGE RILEY: Mr. Huttenhower, anything?

13 MR. HUTTENHOWER: A question I had, having seen  
14 the amended complaint, was sort of a variation of the  
15 question I had before which is, who is here?

16 Mr. Wampler, having been an officer of Open  
17 Solutions would be an appropriate person to bring a  
18 complaint on behalf of Open Solutions.

19 I think - - I can't remember Mr. Wampler's  
20 title with Netrix, but I think he was a principal and, as  
21 such, he would be an appropriate person to bring a complaint  
22 on behalf of Netrix had Netrix had a complaint to bring,

1 but I guess, given what he filed earlier this week, I'm  
2 not sure which hat he's wearing.

3 The complaint doesn't say.

4 It just says Jeffrey Wampler and - -

5 MR. WAMPLER: That's the way it was asked for me  
6 to prepare, Jeffrey Wampler, because, again, as we talked  
7 about, it's dissolved.

8 AT&T is still performing the billing, whether  
9 they're billing a legal entity, whether they're billing an  
10 individual, whether they're billing a subsidiary  
11 organization, they're producing a bill, and that bill is  
12 outside of the contract that was agreed to by both  
13 organizations.

14 JUDGE RILEY: Whose name is on the bill?

15 MR. WAMPLER: Open Solutions.

16 JUDGE RILEY: Open Solutions, correct, is still  
17 a customer of AT&T and - -

18 MR. WAMPLER: Correct.

19 JUDGE RILEY: - - and AT&T is something that is  
20 billed out, and you, as the president of this dissolved  
21 company, the bills are coming directly to you?

22 MR. WAMPLER: Correct.

1 JUDGE RILEY: Does your name appear on the bills  
2 at all?

3 MR. WAMPLER: It does not.

4 JUDGE RILEY: All right.

5 MR. WAMPLER: It appears on the contracts.

6 JUDGE RILEY: Right, on the contracts.

7 MR. WAMPLER: And we attached the contracts to  
8 the complaint.

9 JUDGE RILEY: And these are the contracts with  
10 AT&T?

11 MR. WAMPLER: Correct.

12 JUDGE RILEY: You are the President of Open  
13 Solutions, true?

14 MR. WAMPLER: Correct.

15 JUDGE RILEY: Mr. Wampler, you're still contesting  
16 the allegation - - you're still alleging that AT&T  
17 improperly increased the amount of the billings to Open  
18 Solutions by more than 1,000 percent without the properly  
19 required notice?

20 MR. WAMPLER: Without the notice that's called  
21 for within the contracts.

22 JUDGE RILEY: Mr. Huttenhower, again, AT&T's



1 response to the complaint.

2 MR. HUTTENHOWER: I believe that on the substance  
3 that we interpreted the contract correctly, and in addition  
4 where the rate was reverting to what was obviously the  
5 tariff liens as opposed to a rate in a contract, the serve  
6 notice provision that Mr. Wampler relies on isn't  
7 applicable.

8 I guess - - I don't want to harp on this  
9 point. I just want to understand.

10 So, Mr. Wampler, effectively, if I look at  
11 the first line of the complaint where it gives your name,  
12 you're Jeffrey Wampler, suing as President of Open  
13 Solutions?

14 MR. WAMPLER: Correct.

15 MR. HUTTENHOWER: Okay. Was notice ever issued?

16 JUDGE RILEY: I'm sorry, what notice are you  
17 referring to?

18 MR. WAMPLER: Mr. Huttenhower, was any notice of  
19 a rate increase ever issued?

20 Did you bill it at one rate and then bill it  
21 at a subsequent rate without notice of any kind?

22 MR. HUTTENHOWER: I know that - - well, certainly

1 the bills would have given some indication of what  
2 happened.

3 I know that there has been some  
4 correspondence between AT&T and your company about certain  
5 contracts coming up for, you know, that they were expiring,  
6 and the rates could change or resolve.

7 I don't recall whether this particular  
8 account was called out by name.

9 MR. WAMPLER: Do you have any documentation to  
10 support the notice on this particular account that a rate  
11 increase was provided to Open Solutions, Jeff Wampler, or  
12 anybody associated with the contract?

13 MR. HUTTENHOWER: I'm not sure that's - - if you  
14 want discovery from AT&T, you're certainly welcome to send  
15 it to us, but sort of asking me on the record when I'm  
16 not - - I'm just a lawyer and not somebody who - -

17 MR. WAMPLER: Well, that's the complaint.

18 The complaint is that the rate increase  
19 took place without the required notice, so the question is:  
20 Do you have any proof of any notice given to us regarding  
21 a rate increase?

22 JUDGE RILEY: That's the issue that's going to be

1       decided at hearing.

2                   MR. WAMPLER:   Correct.

3                   JUDGE RILEY:   Right.

4                   MR. WAMPLER:   Because the whole reason this came  
5       about, the only reason we're taking everyone's time, like  
6       I told you walking down the hallway, it's a ridiculous  
7       waste of time, and as soon as we received the bill, we  
8       entered a cancellation notice.

9                   So, the reason that we entered the  
10      cancellation notice is we didn't accept your rate increase.

11                  So, if we want to go to hearing or wherever  
12      we want to go, the bottom line is that we can continue to  
13      take each other's time, but the bottom line is, it doesn't  
14      make sense to me.

15                  MR. HUTTENHOWER:   I guess, Judge, what I would  
16      suggest, well, it's two-fold.

17                  There's a chance that I might decide that I  
18      have a basis to move to dismiss this complaint since I just  
19      saw it 45 minutes ago, I need to think about that.

20                  But what you could do, I suppose, is give  
21      me a deadline to do that, and then also set a date for  
22      hearing so that if I don't file a motion to dismiss, then

1 we have that date set as well.

2 JUDGE RILEY: Right. You're not sure how you're  
3 going to proceed at this point, is that what you're saying?

4 MR. HUTTENHOWER: Right. There may be a basis  
5 for me to move to dismiss, but I'm not sure right now.

6 JUDGE RILEY: All right. Mr. Wampler, do you  
7 understand what Mr. Huttenhower is saying?

8 MR. WAMPLER: Absolutely.

9 JUDGE RILEY: Mr. Huttenhower, can you give me  
10 any kind of a timeframe at all as to when you'll make up  
11 your mind?

12 MR. HUTTENHOWER: Two weeks.

13 JUDGE RILEY: Two weeks. So, you think roughly  
14 by - - is it the 26th or the 27th?

15 Why don't we just give it to the end of the  
16 month.

17 Why don't we give it to Friday, the 28th.

18 MR. HUTTENHOWER: Okay. That's fine.

19 MR. WAMPLER: I will be out of town on Friday,  
20 the 28th, so I get back - - I don't know that anyone's  
21 working except me, but the week of the 4th, I'll be back,  
22 so all but the 4th, so other than that - -

1 JUDGE RILEY: That shouldn't compromise anything  
2 that's going to be done because you'll still be able to  
3 get - - this is going to be Mr. Huttenhower, if he files  
4 a motion to dismiss, and he will file it by the 28th.

5 MR. WAMPLER: Okay.

6 JUDGE RILEY: And you'll have - - I'll send out  
7 a ruling after that, giving you plenty of time to respond  
8 to the motion.

9 MR. WAMPLER: Okay.

10 JUDGE RILEY: So, even if you're going to be  
11 out of town on the 28th, you can pick up the motion when  
12 you get back.

13 MR. WAMPLER: Okay.

14 JUDGE RILEY: You can take it from there.

15 In the meantime - -

16 MR. WAMPLER: Okay.

17 JUDGE RILEY: So, if you're going to make up your  
18 mind by June 28th as to whether you're going to file a  
19 motion to dismiss, Mr. Huttenhower?

20 MR. HUTTENHOWER: Right.

21 JUDGE RILEY: Mr. Wampler, as I said, if that  
22 motion posts on the Commission e-Docket system, I'll give

1       you at least two weeks to respond to it.

2                   MR. WAMPLER:   Okay.

3                   JUDGE RILEY:   And, in the meantime, so that will  
4       take us to pretty much about the 12th of July, and then  
5       I'll probably give Mr. Huttenhower another week to respond  
6       to that, if he decides to make any response, and that will  
7       take us to the 19th, and we'll just set a date for hearing.

8                   MR. WAMPLER:   Are we going to set the date for  
9       hearing today?

10                  JUDGE RILEY:   I would like to.

11                  MR. WAMPLER:   Okay.

12                  JUDGE RILEY:   But I want to set it a good ways  
13       down the road.

14                         It will be well after the 19th, so it will  
15       give me a chance to digest the motion to dismiss and the  
16       responses, and I'd like a few days to do that.

17                         Is there any one day in the week that's good  
18       for you, Mr. Wampler?

19                  MR. WAMPLER:   No.   I mean, I'm fine with any day.

20                  JUDGE RILEY:   Some days are busier than others.

21                  MR. WAMPLER:   Monday is still the only bad day,  
22       if you want to talk about a bad day.

1 JUDGE RILEY: Why don't we look towards the end  
2 of July.

3 MR. HUTTENHOWER: The week of the 29th?

4 JUDGE RILEY: That's what I was looking at, right.  
5 How about the 30th, July 30th, a Tuesday?

6 MR. WAMPLER: What time?

7 JUDGE RILEY: 10:00 a.m.

8 MR. WAMPLER: Okay.

9 JUDGE RILEY: That depends upon - - it's going  
10 to depend upon the ruling on the motion to dismiss.

11 MR. WAMPLER: Sure.

12 JUDGE RILEY: So, the procedure would be, if I  
13 choose to - - not choose, but if I believe that the motion  
14 should be denied, I will simply send out a notice of an  
15 ALJ ruling denying the motion.

16 If I believe the motion should be granted,  
17 what I will do is send out a proposed order to the parties.

18 And, Mr. Wampler, that will give you time  
19 to provide exceptions, and Mr. Huttenhower will have a  
20 chance to provide exceptions to my reasons for granting  
21 the motion.

22 Once I receive your exceptions, I will

1       incorporate those into the order, and I will submit that  
2       order to the Commission for their disposition.

3                       So, I can deny the motion to dismiss.

4                       I cannot grant the motion to dismiss. That  
5       has to go through the Commission.

6                       So, anyway, that's the procedure. But for  
7       right now, what we'll wait for is whether or not AT&T is  
8       going to file a motion to dismiss by June 28th, and that's  
9       our target date.

10                      That will allow us to set in motion, for  
11       lack of a better word, the chain of events.

12                      MR. WAMPLER: Okay.

13                      JUDGE RILEY: We'll just wait and see if AT&T  
14       files a motion to dismiss by June 28th, and we'll respond  
15       accordingly.

16                      MR. WAMPLER: Okay. Thank you, guys.

17                      JUDGE RILEY: Thank you very much.

18                      MR. WAMPLER: Thank you.

19

20

21

22